80-1313
No. ____

FILED
FEB 4 1981
ALEXANDER L. STEVAS,

IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

Julia McCain Lampkin-Asam, Ph.D.
Appellant

vs.

State of Florida
Appellee

On Appeal from The Supreme Court of Florida

JURISDICTIONAL STATEMENT

Julia McCain Lampkin-Asam, Ph.D.
Appellant
Representing Self
2243 Gorham Avenue
Ft. Myers, Florida 33907

QUESTIONS PRESENTED

I. Whether a state statute, Florida Statute, Article 5, section 3(b)(3), Florida Constitution, has infringed upon the U.S. Constitutional rights ("due process" of the 5th and 14th Amendments to the U.S. Constitution and"equal protection" of the 14th Amendment to the U.S. Constitution) of the Appellant to have access to the highest court of the state, The Supreme Court of Florida?

II. Whether the Appellant's constitutional rights of "due process" (5th and 14th Amendments to the U.S. Constitution) are violated by a circuit judge making a judicial error not based on the record and by the circuit judge granting a summary judgment in a negligent case of a teacher's union (FTP-NEA) not representing the teacher, and the District Court of Appeal, First District, of the State of Florida, affirming the Circuit Court decision with the District Court of Appeal justices writing no opinion, leading to the Florida Statute, Article 5, section 3(b)(3), Florida Constitution, preventing the Appellant access to the highest court of the state, The Supreme Court of Florida, when the original circuit court case was not tried by a jury due to a judge making an erroneous decision of summary judgment in favor of the defendant, FTP-NEA (Florida Teaching Profession, National Education Association)?

III. Whether an union, (FTP-NEA), the teacher's union, can claim representation at an arbitration of the teacher when the FTP-NEA was not present at any arbitration and a letter from FTP-NEA to Dr. Julia Asam, dated July 18, 1979, (Exhibit G attached to

the Amended Complaint in the Circuit Court which stated,

> "FTP-NEA did not provide that legal assistance last year when originally requested and will not do so now."?

IV. Whether the Supreme Court of the U.S. can take original jurisdiction of the state case (Julia L. Asam, v. FTP-NEA, Florida Teaching Profession-National Education Association - case no. 79-2044 in the circuit court and case no. TT-270 in the District Court of Appeal, First District) when the Appellant has had her U.S. Constitutional rights of "due process" (5th and 14th Amendments to the U.S. Constitution) and "equal protection" (14th Amendment to the U.S. Constitution) violated because a new state statute (Florida Statute, Article 5, section 3(b)(3), Florida Constitution) prevented the Appellant to have access to the highest state court, The Supreme Court of Florida?

PARTIES TO THE PROCEEDING

Julia McCain Lampkin-Asam, Ph.D., (Julia L. Asam), Appellant (Plaintiff/Petitioner below).
FTP-NEA (Florida Teaching Profession-National Education Association) (Defendant/-Respondent below), John Myrick, President
State of Florida
Hon. Governor Daniel Robert Graham
Attorney General, Jim Smith
The Supreme Court of Florida
District Court of Appeal, First District
Circuit Court of the Second Judicial Circuit in and for Leon County, Florida

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No. ____

IN THE

Supreme Court of the United States

OCTOBER TERM, 1981

Julia McCain Lampkin-Asam, Ph.D.
Appellant

vs.

State of Florida
Appellee

On Appeal From The Supreme Court
of Florida

JURISDICTIONAL STATEMENT

STATEMENT OF THE CASE

This is an appeal from the final order of the Supreme Court of Florida dismissing case no. 59,871 (styled Julia L. Asam v. FTP-NEA (Florida Teaching Profession-National Education Association),union on October 31, 1980, the same date that the

$75.00 filing fee was received. The Supreme Court of Florida failed to consider the jurisdictional brief and appendix timely filed by the Appellant because the new Florida Statute, Article 5, section 3(b)(3) of the Florida Constitution prevents a case from the District Court of Appeal, First District, from being considered in The Supreme Court of Florida when the District Court of Appeal affirmed the lower circuit court decision without writing an opinion.

This Florida Statute Article 5, section 3(b)(3) of the Florida Constitution is repugnant to the U.S. Constitution, 5th and 14th amendments.

The petition for rehearing in the District Court of Appeal, First District, was denied October 8, 1980. On September 9, 1980, the District Court of Appeal, First District, affirmed the decision of the lower court of summary judgment in favor of the defendant, FTP-NEA and the District Court of Appeal, First District, failed to write an opinion, thus automatically according to the new Florida Statutes, Article 5, section 3(b)(3) of the Florida Constitution,prevented the case from being considered by the highest court of the state, The Supreme Court of Florida.

The Appellant's constitutional rights ("due process" of the 5th and 14th amendments to the U.S. Constitution, and "equal protection" of the 14th amendments to the U.S. Constitution) have been violated by the Florida Statute, Article 5, section 3(b)(3) of the Florida Constitution since the District Court of Appeal, First District, affirmed a Summary Judgment which was based on a <u>false statement</u> by the judge of the circuit court which states, (see a5 in the appendix),quoted at the top of the next page,

> "The file reflects that the Plaintiff received the legal representation to which she was entitled through her contract of membership with the Defendant." (See p. a-5 of the appendix).

In reality the record does not reflect that the FTP-NEA gave any legal representation to Dr. Julia Asam in the school year 1977-78. See quote from letter in record (p. 62) and Exhibit G of the Amended Complaint. This letter from FTP-NEA dated July 18, 1979 states,

> "FTP-NEA did not provide that legal assistance last year when originally requested and will not do so now."

The District Court of Appeal, First District, just affirmed a fraudulent reason by the Circuit Judge since his decision of Summary Judgment was based on the above false statement.

The point is that a citizen of the U.S., as well as Florida, the Appellant, did not have her day in court in any court in Florida when the union, FTP-NEA, failed to represent her at any arbitration.

The Supreme Court of Florida according to the new Florida Statute, Article 5, section 3(b)(3) of the Florida Constitution did not consider the case no. TT-270 from the District Court of Appeal, First District, but dismissed the case which was given the number 59,871 in The Supreme Court of Florida. Further, The Supreme Court of Florida made a statement that a motion for rehearing would not be entertained.

The Notice of Appeal to The Supreme Court of the United States was filed Nov. 12, 1980 in The Supreme Court of Florida because the Florida Statute Article 5, section 3(b)(3) of the Florida Constitution had infringed upon the constitutional

rights of the Appellant who was denied "due process" and equal protection of the laws, (14th Amendment to the U.S. Constitution].

The motion of Summary Judgment was granted by the Circuit Judge on December 21, 1979, with the judge giving a false reason as quoted on page 3 of this Jurisdictional Statement.

There was no doubt about it the FTP-NEA was not present at any arbitration. The arbitrator in his Discussion and Opinion made the following statement found on p. a-5 of the appendix.

> "The most significant difference between this and other grievance arbitrations was the absence of the teacher's representative."

Not only did the FTP-NEA show negligence by not having a representative at Dr. Asam's arbitraions, but the FTP-NEA breached the contract between a union member, Julia Asam, and the teacher's union (FTP-NEA). Therefore, the circuit judge should not have granted a summary judgment when genuine issues of material facts existed.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

United States Constitution, Amendment V

No person shall ... be deprived of life, liberty or property, without due process of law;..."

United States Constitution, Amendment XIV

"Section 1. All persons born or

naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside; No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws."
Quotes from Constitutional Law, 4 ed., P.A. Freund, A.E. Sutherland, M.D. Howe and E.J. Brown, Little, Brown & Co., Boston, 1977.

Florida Statutes.

After April 1, 1980, Article 5, section 3(b)(3) of the Florida Constitution, reads,

> "May review any decision of a district court of appeal ... that expressly and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law."

(See p. a-1 of the appendix for the document showing the Supreme Court of Florida according to Jenkins vs. State, 385 So 2d 1356 (Fla. 1980) lacked the jurisdiction to review District Court of Appeal's decision, which read in its entirety "Per Curiam Affirmed". See p. a-3 of the appendix showing that the District Court of Appeal, First District made the decision in the instant case which read "Per Curiam Affirmed", an erroneous decision by the justices of the District Court of Appeal.)

Quotes from the U.S.C. concerning the jurisdiction of The Supreme Court of the United States.

28 USC Section 1257 (2)
"By appeal, where is drawn in question the validity of a statute of any state on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity."

28 USC Section 2106
"The Supreme Court of any other court of appellate jurisdiction may affirm, modify, vacate, set aside or reverse any judgment, decree, or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree, or order, or require such further proceedings to be had as may be just under the circumstnaces."

42 USC section 1983
"Every person who, under color of any statute, ordinance, regulation, custom, or usuage, or any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities accured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress."

28 USC section 1343 (3)
"(3) To redress the deprivation, under color of any State law, statute, ordinance, regulation, custom or usuage, or any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;"

SUBSTANTIALITY OF THE QUESTIONS PRESENTED

I

The state statute, Florida Statute, Article 5, section 3(b)(3), of the Florida Constitution, did infringed upon the U.S. Constitutional rights ("due process" of the 5th and 14th Amendments to the U.S. Constitution and "equal protection" of the 14th Amendment to the U.S. Constitution) of the Appellant to have access to the highest court of the state, The Supreme Court of Florida.

The Florida Statute, Article 5, section 3(b)(3) of the Florida Constitution states, after April 1, 1980,

> "May review any decision of a district court of appeal ... that expressly and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law."

The District Court of Appeal, First District, decision in the instant case is expressly and directly in conflict with the U.S. Supreme Court case, Vaca v. Sipes, 386 U.S. 171, 87 S Ct 903, 17 L Ed. 2d 842 at 846 which states,

> "A union may not arbitrarily ignore a meritorious grievance or process it in perfunctory fashion."

However, the Supreme Court of Florida did not review the decision of the District Court of Appeal, First District, giving as the reason that the court was without jurisdiction with the citation Jenkins vs.State, 385 So 2d 1356 (Fla. 1980)which states,

> "Supreme Court lacked jurisdiction to review District Court of Appeal's decision, which read in its entirety "Per Curiam Affirmed,"...

The District Court of Appeal, First District, should have written an opinion instead of just affirming the lower circuit court when the judge of the lower circuit court made a gross judicial error by claiming the file showed representation for Julia Asam, without the judge making any reference to where in the record. In reality the record did not show any legal representation by FTP-NEA in the school year in question (1977-78) but the record showed just the opposite as evidenced by the July 18, 1979 letter from FTP-NEA which states,

> "FTP-NEA did not provide that legal assistance last year when originally requested and will not do so now."

Florida case law is presented here showing that an union must support its members at arbitration. See Frederick v. School Board of Monroe County, Fla. App. 307 So 2d 463 at 463,

> "Teachers' associations had standing to bring suit on behalf of nontenured teacher to compel school board to exhaust the grievance procedure it adopted and to submit teachers' grievance to an arbitrator."

This Frederick v. School Board of Monroe County supra case shows that FTP-NEA, the teachers' union for the Appellant, should have provided legal representation for Julia Asam at the arbitration step of the grievance.

In Thompson v. Machinist Lodge 1049, 258 F Supp. 235 (E.D. Va., 1966), labor unions owe a duty of fair representation to their members.

> "Labor unions owe a duty of fair representation to their members and a union becomes liable in damages for breaching this duty."

There is no doubt about it that the FTP-NEA

is liable for the damages to Julia Asam because she did not have any legal representation from the FTP-NEA at two arbitrations.

See Robert A. Gorman, "Basic Text on Labor Law Unionization and Collective Bargaining" p. 721 which states,

"Court will more openly ackowledge that a union at least in the processing of grievances... owes the employees it represents a duty of due care in the protection of their interests."

FTP-NEA failed to exercise due care in the protection of Julia Asam's interests, and as a result Julia Asam can not receive a teaching position anywhere in the U.S.A. when she has a valid teaching certificate until 1994 from the State of Florida for teaching science, biology and chemistry, as well as a Rank I in administration and supervision.

The Lake County Education Association v. School Board of Lake County 360 So 2d 1280 at 1284 states,

> "Where an agreement has been reached on procedures the arbitrator's decision granting a nontenured teacher relief because of the failure to follow such procedures has been upheld."

According to the quote above from p. 1284, nontenured teacher (annual contract teacher) has rights for reinstatement when the administrator, in his evaluation of the teacher, has violated administrative contractural procedures. Since the FTP-NEA failed to legally support Julia Asam, when the theory in law existed for reinstatement, the final summary judgment should have been reversed by the District Court of Appeal, First District. The Lake County Education Association v. School Board of Lake County supra was decided in the District Court of Appeal, Second District. Therefore, the District

Court of Appeal, First District, is expressly and directly in conflict with the decision in the instant case with the District Court of Appeal, Second District. The First District Court of Appeal should have written an opinion with all the case law in the state of Florida and the U.S. Supreme Court case Vaca v. Sipes supra; therefore, the final summary judgment should have been reversed and remanded by the District Court of Appeal, First District. The point is that the District Court of Appeal, First District, ignored the Lake County ... decision when an administrative contractural procedure is violated in a teachers' evaluation, even nontenured teacher (annual contract teacher) has rights.

The new Florida Statute Article 5, section 3(b)(3) of the Florida Constitution infringed upon the constitutional rights of Julia Asam to have access to a higher court of the state, The Supreme Court of Florida because the District Court of Appeal, First District, not only made the mistake of affirming the lower court decision but the District Court of Appeal, First District, failed to write an opinion and only stated "Per curiam affirmed" and with this new Florida Statute Article 5, section 3(b)(3) the Supreme Court of Florida claimed no jurisdiction in the case. The Supreme Court of the United States should take original jurisdiction of this case and reverse the summary judgment based on the facts and law in the instant case.

II

See p. 11, the next page for II.

The Appellant's constitutional rights of "due process" (5th and 14th amendments to the U.S. Constitution) are violated by the circuit judge making a judicial error not based on the record and by the circuit judge granting a summary judgment in a negligent case of a teacher's union (FTP-NEA) not representing the teacher. The Appellant's constitutional rights were further violated when the District Court of Appeal, First District, of the State of Florida, affirmed "Per curiam affirmed" the circuit court decision of summary judgment with the justices writing no opinion leading to the Florida Statute, Article 5, section 3(b)(3) of the Florida Constitution preventing the Appellant access to the highest court of the state, The Supreme Court of Florida.

The District Court of Appeal, First District, just affirmed a fraudulent reason by the circuit judge for the decision of summary judgment. The circuit judge stated on p. a-5 in the appendix in his granting the summary judgment,

> "The file reflects that the Plaintiff received the legal representation to which she was entitled through her contract of membership with the Defendant."

In reality the record does not reflect that the FTP-NEA gave any legal representation to Dr. Julia Asam in the school year 1977-78. The following quote is from a letter dated July 18, 1979, to Dr. Julia Asam,

> "FTP-NEA did not provide that legal assistance last year when originally requested and will not do so now."

The point is the District Court of Appeal, First District, affirmed this false statement by the judge of the Circuit Court. Since the District Court of Appeal, First District, did not write an opinion, it is not known if an arbitrary decision not to

reverse the final summary judgment because the affirmed decision was based on a false statement by the judge (see exact quote on p. 11 of this Jurisdictional statement).

The state of Florida law clearly states that disputed facts are not decided by summary judgment. See American Bankers Insurance Company of Florida v. Nolan's Garage, Inc. Fla. 162 So 2d 727 at 728,

> "Summary judgment should be denied if evidence by affidavit, pleadings, depositions or otherwise demonstrates existence of a genuine issue of material fact, 31 F.S.A. Rules of Civil Procedure, rule 1.510(c)."

Also see Byrd, v. Leach, Fla. App. 1979, 226 So 2d 866, and Producers Fertilizer Co. v. Holder, Fla. App. 1968, 208 So 2d 492. Not only must no genuine issue as to material fact exist but the moving party must be entitled to judgment as a matter of law. See Knight v. American Heritage Life Ins. Co. Fla. App. 1970, 237 So 2d 224. The judge of the lower circuit court failed to show that FTP-NEA was entitled to a final summary judgment as a matter of law; no legal citation was given in his order dated Dec. 21, 1979, (see a-4 in the appendix).

Therefore, the District Court of Appeal, First District, is expressly and directly making a conflicting decision against the law of the state of Florida in the above cases on this page. Summary judgment is not made when genuine issues of material fact exists, especially when there are disputed facts.

Cases showing negligence are not ordinarily decided by summary judgment.

See Dornton v. Darby, CA 5th 1967, 373 F 2d 619,

> "Issues of negligence, contributory negligence, and probable cause cannot ordinarily be determined on summary judgment."

The FTP-NEA, the teacher's union can not claim representation at an arbitration of the teacher when the FTP-NEA was not present at any arbitration. The FTP-NEA is impeached by their own letter dated July 18, 1979, which states,

> "FTP-NEA did not provide that legal assistance last year when originally requested and will not do so now."

Further, this same quote from the letter by FTP-NEA impeaches the statement by the judge of the circuit court giving the following reason for his decision of final summary judgment in favor of the defendant, FTP-NEA. The judge of the circuit court gave as the reason for his final summary judgment,

> "The file reflects that the Plaintiff received the legal representation to which she was entitled through her contract of membership with the defendant." (See a-5 of the appendix).

This statement by the judge is incorrect. Because the judge made an erroneous judicial decision, this should be grounds alone for reversal of the decision of final summary judgment.

FTP-NEA breached the contract between the union, FTP-NEA and the union member, Julia Asam, by the FTP-NEA not providing any legal service for the arbitration step of the grievance when the By-laws clearly stated legal service would be provided,

> "i. To be afforded due process through the fair and impartial hearing of grievances, including binding arbitration, as a means of resolving disputes." (from the By-Laws of FTP-NEA, Bill of Teacher Rights). (see appendix in District Court of Appeal, p. 49).

The District Court of Appeal, First District decision in the instant case is expressly and directly in conflict with the

U.S. Supreme Court case, Vaca v. Sipes, 386 U.S. 171, 87 S Ct, 903, 17 L Ed. 2d 842 at 846 which states,

> "A union may not arbitrarily ignore a meritorious grievance or process it in perfunctory fashion."

IV

The Supreme Court of the United States can take original jurisdiction of the state case according to 28 USC Section 2106 which states,

> "The Supreme Court of any other court of appellate jurisdiction may affirm, modify, vacate, set aside, or reverse any judgment...and may remand the cause and direct the entry of such appropriate judgment...or require such further proceedings to be had as may be just under the circumstances."

Reviewing court has power not only to correct error in judgment under review but to make such disposition of case as justice requires. In re Elmore, 1967, 382, F 2d 125, 127, U.S. App. D.C. 176.

The Supreme Court's duty is not limited to elaboration of constitutional principles; the Court must also in proper cases review the evidence to make certain that those principles have been constitutionally applied. Greenbelt Co. op. Pub. Ass'n v. Bresler, Md. 1970, 90 S Ct. 1537, 398 U.S. 6, 26 L Ed 2d 6.

United States Supreme Court may review directly the decision of the highest state courts on the constitutionality, under the Federal Constitution, of state statutes. Horwitt v. Horwitt, D.C. Conn. 1950, 90 F Supp. 528.

The Supreme Court's appellate jurisdiction was properly invoked, where the state court

judgment sought to be reviewed upheld a state statute against contention that on its face and as applied, the statute violated the federal Constitution, Bantam Books, Inc. v. Sullivan, R.I. 1963, 83 S Ct 631, 372 U.S. 58, 9 L Ed 2d 584.

While the Supreme Court follows the decision of the highest state court as to the meaning of a state statute which is asserted to violate the Federal Constitution, the name given to the statute is not conclusive, and it must be judge by its necessary effect, and if that is to violate the Constitution of the United States the law must be declared void. Standard Oil Co. v. Graves, Wash. 1919, 39 S Ct 320, 249 U.S. 389, 63 L Ed. 662. (Emphasis added.)

The only basis for federal jurisdiction under 42 USC section 1983 is the deprivation under color of state law of any rights, privileges, or immunities secured by Constitution and laws. Krum v. Sheppard D.C. Mich. 1966, 255 F Supp. 904, affirmed 407 F 2d 490.

In the instant case, a new Florida Statute Article V section 3(b)(3) of the Florida Constitution has prevented the Appellant access to the highest court of the state, The Supreme Court of Florida. Thus, the Appellant's contitutional rights of "due process" in a court (5th and 14th Amendments to the U.S. Constitution) and equal protection of the law (14th Amendment to the U.S. Constitution) have been infringed by this new Florida Statute (Article V, section 3(b)(3), Florida Constitution) because the Appellant's right to a trial by a jury was blocked by the erroneous decision of summary judgment by a circuit judge.

CONCLUSION

1. The new Florida Statute, Article V, section 3(b)(3) of the Florida Constitution did infringe upon the Appellant's constitutional rights of "due process" (5th and 14th Amendments to the U.S. Constitution) and equal protection of the law (14th Amendment to the U.S. Constitution) because the Appellant was not allowed access to the highest court of the state, (The Supreme Court of Florida) due to the new Florida Statute.

2. The District Court of Appeal, First District erred:

(1) in not reversing the summary judgment since the circuit judge based his decision for summary judgment on a false statement by himself (see p.3 of this Jurisdictional Statement for quote) due to the fact the record did not reflect any legal representation by FTP-NEA at any arbitration of the Appellant.

(2) by only writing "Per curiam affirmed" so that the new Florida Statute (Article V, section 3(b)(3), Florida Constitution) would block the Appellant's access to the Supreme Court of Florida when both Florida case law and federal Supreme Court law were expressly and directly against the decision by the District Court of Appeal, First District.

3. The Circuit court judge erred:

(1) by granting a summary judgment for his fraudulent reason (see p. 3 of this Jurisdictional Statement for quote) when in reality the record reflected just the opposite; there was no representation at any arbitration by the FTP-NEA; further, the judge's reason of granting the summary judgment was impeached by a letter from the FTP-NEA dated July 18, 1979, which stated,

"FTP-NEA did not provide that legal assistance last year when originally requested and will not do so now."

(2) by granting a summary judgment when genuine issues of material fact existed in the case.

(3) by granting a summary judgment in a negligent case of no legal representation by the union, FTP-NEA.

4. The Supreme Court of The United States does have jurisdiction in a case when a state statute infringes on the federal Constitution. The Supreme Court of the United States can take original jurisdiction to see that justice is done or The Supreme Court of the United States can remand to a lower appellate court with instructions to judge the case based on the Florida law and federal law, especially since the Appellant's rights to a trial by a jury were prevented by a circuit judge making an erroneous decision of summary judgment.

Respectfully submitted,

Julia McCain Lampkin-Asam, Ph.D.
Appellant, Representing Self
2243 Gorham Ave., Ft. Myers, Fla.33907

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd of Feb. 1981 a copy of the above Statement of Jurisdiction was mailed to the State of Florida, Hon. Gov. Daniel Robert Graham and the Attorney General, Jim Smith, The Capitol, Tallahassee, Fla.; The Supreme Court of Florida and the District Court of Appeal, First District, The Supreme Court Building, Tallahassee, Fla.; Circuit Court of the Second Judicial Circuit in and for Leon County, Leon County Courthouse, Tallahassee, Fla. and FTP-NEA, Mr. John Myrick,Pres. and Mr. Ronald Meyer, Attorney, 213 S. Adams St. Tallahassee, Fla.

By:_____

APPENDIX

Exhibit A

In the Supreme Court of Florida
Friday, October 31, 1980

Julia L. Asam, Ph.D. Petitioner,	)	Case no. 59,871
vs.	)	
FTP-NEA (Florida Teaching Profession-National Education Association, Respondent.	)	District Court of Appeal, First District No. TT-270

It appearing to the Court that it is without jurisdiction, the Petition for Review is hereby dismissed. Jenkins vs. State, 385 So 2d 1356 (Fla. 1980).

No Motion for Rehearing will be entertained by the Court.

A True Copy

TEST:

(Seal)

Sid J. White
Clerk Supreme Court
s/Dulibrie Causseaux
Deputy Clerk

C
cc:Hon. Raymond E. Rhodes,Clerk
Hon. Paul F. Hartsfield,Clerk
Hon. Ben C. Willis,Chief Judge
Julia L. Asam, Ph.D.
Ronald Meyer, Esquire

Exhibit B

District Court of Appeal, First District
Supreme Court Building
Tallahassee, Florida 32304
Telephone No. (904) 488-6152
October 8, 1980
Case no. TT-270

Julia L. Asam, P.D. vs. FTP-NEA
Appellant/ Petitioner, Appellee/ Respondent

Memorandum to Counsel or Parties Listed Below

The following action was taken in the above styled case on the above date:
Petition for Rehearing denied.

(Seal) By Order of the Court
Raymond E. Rhodes, Clerk

IHEREBY CERTIFY that a true and correct copy of the above was mailed this date to the following:
Julia L. Asam, Pro se, Ft. Myers, Florida 33907; Ronald Meyer, Esquire, Tallahassee, Florida 32301.

s/Karen Robert
Deputy Clerk

Exhibit C

In the District Court of Appeal
First District, State of Florida

Julia L. Asam, Ph.D., Appellant, vs. FTP-NEA (Florida Teaching Profession-National Education Association), union Appellee	Not final until time expires to file rehearing petition and disposition thereof if filed. Case no. TT-270

Opinion filed September 9, 1980.

An appeal from the Circuit Court for Leon County. James E. Joanos, Judge.

Julia L. Asam, in proper person, for Appellant.

Ronald G. Meyer, General Counsel for Florida Teaching Profession-National Education Assiciation; union, for Appellee.

PER CURIAM.

AFFIRMED.

Robert Smith, Booth and Shaw, JJ., Concur.

Exhibit D

In the Circuit Court of the
Second Judicial Circuit, in
and for Leon County, Florida

Julia L. Asam, teacher, Plaintiff,	)	
vs.	)	
FTP-NEA (Florida Teaching Profession-National Education Association) Union, Defendant.	)	Case no. 79-2044

Final Summary Judgment
In Favor Of Defendant

THIS CAUSE came on to be heard before the Court with respect to the matters disposed of by this Order. The Court has considered legal arguments presented in behalf of the parties, studied the file and become advised in the premises.

Upon consideration, it is ORDERFD that:

1. The motions of Plaintiff for Default and motion to hold the Defendant's president in contempt be and are hereby denied.

2. Plaintiff's motions to strike the affidavit accompanying the "Motion To Dismiss, Strike and, in the Alternative For Summary Judgment on Behalf of the Defendant" be and is hereby denied.

3. In regard to the "Motion To Dismiss Strike and, in the Alternative For Summary Judgment on Behalf of the Defendant", as to Counts 1 and 2 of the Amended Complaint, the Motion To Dismiss is granted and Counts 1 and 2 of the Amended Complaint are hereby dismissed as neither of those counts states a cause of action upon which relief can be granted. As to Count 3 of the Amended Complaint Defendant's Motion for Summary Judgment be and is hereby granted. There is

found to be no genuine issue of material fact. The file reflects that the Plaintiff received the legal representation to which she was entitled through her contract of membership with the Defendant.

4. In light of the foregoing, the other motions pending in the file are rendered moot.

5. Wherefore, it is ADJUDGED that Plaintiff, JULIA L. ASAM, take nothing by this action and that Defendant, FTP-NEA (Florida Teaching Profession-National Education Association), go hence without day.

DONE AND ORDERED at Tallahassee, Leon County, Florida, this 21st day of December, 1979.

s/James E. Joanos
Circuit Judge

Copies furnised to:
Julia L. Asam, Ph.D.,
2243 Gorham Avenue,
Ft. Myers, Florida 33907

Ronald G. Myeer, Esquire
FTP-NEA
123 South Adams Street
Tallahassee, Florida 32301

Exhibit E

DISCUSSION AND OPINION

Before discussing the merits of the grievance the Arbitrator wishes to call attention to, and comment upon, certain unusual aspects of the case. The most significant difference between this and other grievance arbitrations was the absence of the teacher's representative. That is Dr. Asam presented her own case apparently with no expert advice or assistance...

By arbitrator, Dr. Sherman

Exhibit F

In the Supreme Court of Florida

Julia McCain Lampkin-Asam, Ph.D, Appellant, Petitioner	Case no. 59,871
v.	District Court of Appeal, First
State of Florida Appellee, Respondent	District No.TT-270
(Filed Nov. 12, 1980) (Supreme Court of (Florida	Circuit Court Second Judicial Circuit in and for Leon County case no. 79-2044

Notice of Appeal to the Supreme Court of the United States

NOTICE IS HEREBY GIVEN that Julia McCain Lampkin-Asam, Ph.D., (Julia L. Asam) Appellant, Petitioner, hereby appeals to the Supreme Court of the United States from a final order of the Supreme Court of Florida dismissing case no. 59,871 (styled Julia L. Asam v. FTP-NEA (Florida Teaching Profession-National Education Association, union) on October 31, 1980, the same date the $75.00 filing fee was received. The Supreme Court of Florida failed to consider the jurisdictional Brief and appendix timely filed by the Appellant. The new Florida Statute, Article 5, section 3(b)(3), (Florida Constitution), prevents a case from the District Court of Appeal, First District, from being considered in the Supreme Court of Florida, thus, violating the constitutional right of the Appellant to have "due process" and equal protection under the law. This Florida Statute, Article 5, section 3(b)(3) (Florida Constitution) is repugnant to the U.S. Constitution, fourteenth amendment.

The Appellant rights have been violated by the Florida Statute since the District Court of Appeal, First District, affirmed a Summary Judgment which was based on a false statement by the judge, which states,

> "The file reflects that the Plaintiff received the legal representation to which she was entitled through her contract of membership with the Defendant."

In reality the record does not reflect that the FTP-NEA gave any legal representation to Dr. Julia Asam in the school year 1977-78. Quote from letter in record dated July 18, 1979 from FTP-NEA,

> "FTP-NEA did not provide that legal assistance last year when originally requested and will not do so now."

(Exhibit G of the Amended Complaint - Record p. 62).

The District Court of Appeal, First District, just affirmed a fraudulent reason by the circuit judge since his decision of Summary Judgment was based on the above false statement.

Then, the Supreme Court of Florida according to the new Florida Statute, Article 5, section 3(b)(3) (Florida Constitution) did not consider the case no. TT-270 at all from the District Court of Appeal, First District, but dismissed the case and made a statement would not entertain a rehearing motion. This Florida Statute, Article 5, section 3(b)(3) prevented the Supreme Court of Florida even considering the jurisdictional brief timely filed by the Appellant. The point is that a citizen of the U.S. as well as Florida, did not have her day in court in any court in Florida when the union, FTP-NEA, failed to represent her at any arbitration.

The District Court of Appeal, First District, decision in the instant case is

expressly and directly in conflict with the U.S. Supreme Court case, Vaca v. Sipes, 386 U.S. 171, 87 S Ct 903, 17 L Ed. 2d 842 at 846 which states,

> "A union may not arbitrarily ignore a meritorious grievance or process it in perfunctory fashion."

Additional cases will be presented in the jurisdictional brief to the Supreme Court of the United States.

This Notice of Appeal is to appeal the decision in the Supreme Court of Florida where the Florida Statute Article 5, section 3(b)(3) (Florida Constitution) has infringed upon the constitutional rights of the Appellant who has been denied "due process" and equal protection of the laws, (14th amendment to the U.S. Constitution). The Appellant respectfully requests the Supreme Court of the United States to take original jurisdiction and review the case 79-2044 in the circuit court, the Summary Judgment, since genuine issues of material fact existed.

This appeal is taken pursuant to Title 28, United States Code, Section 1257(2), 28 United States Code, Section 2106, 28 United States Code, Section 1343(3) and 42 United States Code, Section 1983.

Respectfully submitted,

Julia McCain Lampkin-Asam, Ph.D.
Representing Self
Appellant, Petitioner
2243 Gorham Ave.
Ft. Myers, Florida 33907

Certificate of Service and Proof of Service on following pages.

Notice of Appeal to the Supreme Court of the United States from the Supreme Court of Florida case no. 59,871, (page 3)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing was hand-delivered to Hon. Daniel Robert Graham, Governor of the State of Florida, The Capitol, Tallahasse, Florida; Hno. Jim Smith, Attorney General, State of Florida, The Capitol, Tallahassee, Florida; Clerk, Mr. Rhodes, District Court of Appeal, Firest District, Supreme Court Building, Tallahassee, Florida; Clerk, Mr. Hartsfield, Circuit Court, Second Judicial Circuit Court in and for Leon County, Tallahassee, Florida; and mailed a copy to FTP-NEA (Florida Teaching Profession-National Education Association), Attn: Mr. John Myrick, President, Mr. Ronald Meyer, 213 South Adams St., Tallahassee, Florida 32301 this 12th day of November 1980.

By: _____

Proof of service was given to the Supreme Court of Florida at the time of filing Nov. 12, 1980.